

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

TIBCO Software Inc.

Opposer,

v.

Tmax Soft Co., Ltd.

Applicant

Trademark Application
Serial No. 76/494,782

06-28-2004

U.S. Patent & TMO/TM Mail Rpt Dt. #76

Filed: March 5, 2003

Mark: TIBERO

Published: May 25, 2004

Official Gazette p. TM 360

BOX TTAB — FEE

Assistant Commissioner for Trademarks

2900 Crystal Drive

Arlington, VA 22202-3513

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514, on

Karen Lyons 6/22/04
Signature Date

NOTICE OF OPPOSITION

TIBCO Software Inc., by and through its undersigned attorneys, believes that it will be damaged by the registration of U.S. Trademark Application Serial No. 76/494,782 for the mark TIBERO in International Class 9 and hereby opposes the same. As grounds for opposition, it is alleged that:

1. Upon information and belief, Applicant Tmax Soft Co., Ltd. (hereinafter "Applicant"), is a Korean corporation with an address of Glass tower 19th Floor, 946-1 Daechi 3 Dong, Kangnam-ku, 135-280, Seoul, Republic of Korea.
2. Upon information and belief, Applicant seeks to register the mark TIBERO for goods identified as "recording computer operating program; notebook

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002982.M009

computer; laptop computer; software programmable microprocessors; CD-Rom drive; magnetic tape drive; computer software for use as an enterprise application integration solution, namely, providing integrated interface between various enterprise applications and user applications, which is recorded in floppy disk, CD-Rom, or magnetic tape device, or downloaded from a website.” in International Class 9.

3. Upon information and belief, this application was filed on March 5, 2003 and was published for opposition on page TM 360 of the Official Gazette on May 25, 2004.
4. Opposer TIBCO Software Inc. is a Delaware corporation having a principal place of business at 3303 Hillview Avenue, Palo Alto, California 94304.
5. TIBCO Software Inc. is a developer and distributor of a variety of computer software products, including business integration software, application integration solutions for enterprises, software for use in business to business integration, software for process management, mainframe integration solutions, business optimization software, data and metadata management software, and enterprise backbone solutions, and also offers a variety of related computer and educational services.
6. TIBCO Software Inc. is the owner of U.S. Registration Nos. 2770781 and 2770804 for the marks TIBCO and TIBCO and Design in International Classes 9, 41, and 42. See printouts of registration information attached as Exhibit A.

7. TIBCO Software Inc. is the owner of U.S. Registration No. 1659536 for the mark TIB for "computer software in the field of communication between computer processes" in International Class 9, and is also the owner of U.S. Registration No. 2288483 for the mark TIB/ACTIVE ENTERPRISE for "computer software for distributed systems development, operation and support, used in the field of software application integration," in International Class 9. See printouts of registration information attached as Exhibit B.
8. TIBCO Software Inc. is the owner of U.S. Registration No. 2,688,187 for the mark TIBCO PORTALBUILDER for a variety of goods in International Class 9, and is also the owner of U.S. Registration No. 2693046 for the mark TIBCO RENDEZVOUS for a variety of goods in International Class 9. See printouts of registration information attached as Exhibit C.
9. TIBCO Software has spent a considerable amount of money marketing its TIBCO products, and consumers are familiar with its products offered under the trademark TIBCO.
10. Opposer's TIBCO trademarks are of significant value to Opposer as identifiers of source in connection with the promotion and offering of its products and services.
11. Upon information and belief, Applicant has based its application upon a bona fide intention to use the mark in commerce and has not filed a use statement

before the U.S. Patent and Trademark Office, and accordingly, priority is not in issue.

12. Applicant's use of the mark TIBERO in connection with "recorded computer operating program; notebook computer; laptop computer; software programmable microprocessors; CD-Rom drive; magnetic tape drive; computer software for use as an enterprise application integration solutions, namely, providing integrated interface between various enterprise applications and user applications, which is recorded in floppy disk, CD-Rom, or magnetic tape device, or downloaded from a website" is likely to cause confusion with Opposer's various TIBCO and TIB trademarks as used in connection with Opposer's goods and services.
13. Applicant's use of the mark TIBCO in connection with "recorded computer operating program; notebook computer; laptop computer; software programmable microprocessors; CD-Rom drive; magnetic tape drive; computer software for use as an enterprise application integration solutions, namely, providing integrated interface between various enterprise applications and user applications, which is recorded in floppy disk, CD-Rom, or magnetic tape device, or downloaded from a website" will result in confusion, mistake, and/or deception in that the public will wrongly assume that Opposer has approved of Applicant, is affiliated with Applicant, or has otherwise sanctioned or sponsored the goods of Applicant.

14. Opposer would be damaged by the registration of the mark TIBERO by Applicant as the registration will result in confusion, mistake, and/or deception, and Applicant will be able to trade on Opposer's goodwill and reputation.

WHEREFORE, Opposer prays that this opposition be granted and that Applicant's application for the mark TIBERO be abandoned.

Respectfully submitted,

TIBCO SOFTWARE INC.

Dated: 6/22/04


Lori M. Stockton

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025
(310) 207-3800

EXHIBIT A



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[Start](#) List At: OR [Jump](#) to record: **Record 2 out of 6**[Check Status](#)*(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)***Typed Drawing****Word Mark** TIBCO**Goods and Services**

IC 009. US 021 023 026 036 038. G & S: computer hardware and software for use in integrating databases, email, search engines, content management, knowledge management, and applications on a global computer network; computer software for use in enterprise application integration, namely, to enable secure delivery of information, data, software, and network services between disparate software applications and systems over computer networks; computer hardware and communications software for use in conducting and processing online business transactions; computer software for use in automating online business networks; computer software and hardware for use in computer networking; computer hardware and software for network monitoring and management; computer databases in the field of business and communications recorded on computer servers; communication equipment, namely, computer hardware and communications servers; computer software for use in deploying and accessing interactive business services; computer software for use in development, customization, administration, and maintenance of web sites and portals. FIRST USE: 19960300. FIRST USE IN COMMERCE: 19960300

IC 042. US 100 101. G & S: computer consulting services; installation, maintenance and updating of computer software; technical support services, namely, monitoring network systems, providing back-up computer programs and facilities, and troubleshooting of computer hardware and software problems. FIRST USE: 19960300. FIRST USE IN COMMERCE: 19960300

IC 041. US 100 101 107. G & S: educational services, namely, providing classes, seminars, conferences, and workshops in the field of computer software. FIRST USE: 19960300. FIRST USE IN COMMERCE: 19960300

Mark Drawing Code (1) TYPED DRAWING
Serial Number 76303227
Filing Date August 20, 2001
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition July 15, 2003
Registration Number 2770781
Registration Date October 7, 2003
Owner (REGISTRANT) TIBCO Software Inc. CORPORATION DELAWARE 3165 Porter Drive Palo Alto CALIFORNIA 94304
Attorney of Record Lori M. Stockton
Prior Registrations 1659536
Type of Mark TRADEMARK. SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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TIBCO

Goods and Services

IC 009. US 021 023 026 036 038. G & S: COMPUTER HARDWARE AND SOFTWARE FOR USE IN INTEGRATING DATABASES, EMAIL, SEARCH ENGINES, CONTENT MANAGEMENT, KNOWLEDGE MANAGEMENT, AND APPLICATIONS ON A GLOBAL COMPUTER NETWORK; COMPUTER SOFTWARE FOR USE IN ENTERPRISE APPLICATION INTEGRATION, NAMELY, TO ENABLE SECURE DELIVERY OF INFORMATION, DATA, SOFTWARE, AND NETWORK SERVICES BETWEEN DISPARATE SOFTWARE APPLICATIONS AND SYSTEMS OVER COMPUTER NETWORKS; COMPUTER HARDWARE AND COMMUNICATIONS SOFTWARE FOR USE IN CONDUCTING AND PROCESSING ONLINE BUSINESS TRANSACTIONS; COMPUTER SOFTWARE FOR USE IN AUTOMATING ONLINE BUSINESS NETWORKS; COMPUTER SOFTWARE AND HARDWARE FOR USE IN COMPUTER NETWORKING; COMPUTER HARDWARE AND SOFTWARE FOR NETWORK MONITORING AND MANAGEMENT; COMPUTER DATABASES IN THE FIELD OF BUSINESS AND COMMUNICATIONS RECORDED ON COMPUTER SERVERS; COMMUNICATION EQUIPMENT, NAMELY, COMPUTER HARDWARE AND COMMUNICATIONS SERVERS; COMPUTER SOFTWARE FOR USE IN DEPLOYING AND ACCESSING INTERACTIVE BUSINESS SERVICES; COMPUTER SOFTWARE FOR USE IN DEVELOPMENT, CUSTOMIZATION, ADMINISTRATION, AND MAINTENANCE OF WEB SITES AND PORTALS. FIRST USE: 19960200. FIRST USE IN

COMMERCE: 19960200

IC 042. US 100 101. G & S: COMPUTER CONSULTING SERVICES; INSTALLATION, MAINTENANCE AND UPDATING OF COMPUTER SOFTWARE; TECHNICAL SUPPORT SERVICES, NAMELY, MONITORING NETWORK SYSTEMS, PROVIDING BACK-UP COMPUTER PROGRAMS AND FACILITIES, AND TROUBLESHOOTING OF COMPUTER HARDWARE AND SOFTWARE PROBLEMS. FIRST USE: 19960200. FIRST USE IN COMMERCE: 19960200

IC 041. US 100 101 107. G & S: EDUCATIONAL SERVICES, NAMELY, PROVIDING CLASSES, SEMINARS, CONFERENCES, AND WORKSHOPS IN THE FIELD OF COMPUTER SOFTWARE. FIRST USE: 19960200. FIRST USE IN COMMERCE: 19960200

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 071107 260921

Serial Number 76324928

Filing Date October 15, 2001

Current Filing Basis 1A

Original Filing Basis 1A

Published for Opposition July 15, 2003

Registration Number 2770804

Registration Date October 7, 2003

Owner (REGISTRANT) TIBCO Software Inc. CORPORATION DELAWARE 3165 Porter Drive Palo Alto CALIFORNIA 94304

Attorney of Record Lori M. Stockton

Prior Registrations 1659536

Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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Word Mark	TIB
Goods and Services	IC 009. US 038. G & S: computer software in the field of communication between computer processes. FIRST USE: 19900700. FIRST USE IN COMMERCE: 19900700
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	74089504
Filing Date	August 20, 1990
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	July 16, 1991
Registration Number	1659536
Registration Date	October 8, 1991
Owner	(REGISTRANT) Teknekron Software Systems, Inc. CORPORATION NEVADA Suite 301 530 Lytton Avenue Palo Alto CALIFORNIA 94301 (LAST LISTED OWNER) TIBCO SOFTWARE INC. CORPORATION BY MERGER, BY CHANGE OF NAME, BY ASSIGNMENT, BY ASSIGNMENT DELAWARE 3165 PORTER DRIVE PALO ALTO CALIFORNIA 94304

Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record LORI M STOCKTON
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20020624.
Renewal 1ST RENEWAL 20020624
Live/Dead Indicator LIVE

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Typed Drawing

Word Mark TIB/ACTIVE ENTERPRISE
Goods and Services IC 009. US 021 023 026 036 038. G & S: Computer software for distributed systems development, operation and support, used in the field of software application integration. FIRST USE: 19980209. FIRST USE IN COMMERCE: 19980209
Mark Drawing Code (1) TYPED DRAWING
Serial Number 75378577
Filing Date October 24, 1997
Current Filing Basis 1A
Original Filing Basis 1B
Published for Opposition August 3, 1999
Registration Number 2288483
Registration Date October 26, 1999
Owner (REGISTRANT) TIBCO Software Inc. CORPORATION DELAWARE 3165 Porter Drive Palo Alto CALIFORNIA 94304
Attorney of Record MICHAEL A EPSTEIN
Type of Mark TRADEMARK
Register PRINCIPAL

**Live/Dead
Indicator**

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Typed Drawing

Word Mark TIBCO PORTALBUILDER

Goods and Services IC 009. US 021 023 026 036 038. G & S: Computer software for use in deploying and accessing interactive business services; computer software for use in conducting and processing online business transactions; computer software for use in automating online business networks; computer software for use in development, customization, administration and maintenance of web sites and portals; computer software for integrating email, search engines, content management, knowledge management, and applications on a global computer network; communications software, namely, to enable secure delivery of information, data, software, and network services between disparate software applications and systems over computer networks. FIRST USE: 19990900. FIRST USE IN COMMERCE: 19990900

Mark Drawing Code (1) TYPED DRAWING

Serial Number 76334150

Filing Date November 5, 2001

Current Filing Basis 1A

Original Filing Basis 1A

Published for Opposition November 26, 2002

Registration Number 2688187

Registration Date February 18, 2003
Owner (REGISTRANT) Tibco Software Inc. CORPORATION DELAWARE 3165
Porter Drive Palo Alto CALIFORNIA 94304
Attorney of Record Lori M. Stockton
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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Word Mark	TIBCO RENDEZVOUS
Goods and Services	IC 009. US 021 023 026 036 038. G & S: computer software for use in enterprise application integration, namely, a messaging tool to be used by application developers and network systems managers to build scalable distributed applications, to enable diverse applications to share data across local area networks and wide area networks and facilitate communications between various enterprise applications. FIRST USE: 20000600. FIRST USE IN COMMERCE: 20000600
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	76409964
Filing Date	May 20, 2002
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	December 10, 2002
Registration Number	2693046
Registration Date	March 4, 2003
Owner	(REGISTRANT) TIBCO Software Inc. CORPORATION DELAWARE 3307 Hillview Palo Alto CALIFORNIA 94304

Attorney of Record Lori M. Stockton
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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